

SECTION 100: GENERAL PROVISIONS

Section 101—Short Title:

This Ordinance shall be known and may be cited as the Vineyard Town Subdivision Ordinance and may be identified within this document and other documents as “the Ordinance,” “this Ordinance” or “Subdivision Ordinance,” or “Land Use Ordinance.” This Ordinance shall be identified as part, or a component of, the Vineyard Town Land Use Ordinances, as defined by Title 10 Chapter 9a Utah Code Annotated, 1953, as amended (hereinafter the “Act”).

Section 102—Purposes:

The Ordinance is established to promote the purposes of the Act and to provide for the orderly division of lands, to avoid incompatibilities in land uses, and to secure the provision and long-term maintenance of necessary infrastructure and services in an efficient and economical manner for existing and future Town residents.

Section 103—Final Plat Required Before Lots May be Sold:

As provided and authorized by the Act, a Final Plat shall be approved, as provided herein, complying with all requirements of this Ordinance, and the Act, before such Final Plat may be filed or recorded in the Office of the Utah County Recorder, and lots may be sold.

Section 104—Enactment:

The Town Council of Vineyard Town, Utah (hereinafter “Council”) adopts this Ordinance pursuant the Act and all other authorities and provisions of Utah and Federal statutory laws, and common law, as applicable. This Ordinance constitutes a part of the Vineyard Town’s Land Use Ordinances, as authorized and identified by the Act.

Section 105—Applicability and Authority:

Upon its adoption by the Vineyard Town Council, and effective the 5th day of September 2006, this Ordinance shall govern and apply to the subdivision and platting of all lands lying within the municipal boundaries of Vineyard Town, Utah (hereinafter “the Town”).

Section 106—Subdivision Defined:

For the purposes of this Ordinance, and the Act, a subdivision shall be, and shall mean;

Any land that is divided, resubdivided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

"Subdivision" includes:

- a. The division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and
- b. All divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes; except as provided in the Act, and Section 106 herein.

Section 107—Subdivision Not to Include:

As provided by the Act and for the purposes of this Ordinance "Subdivision" does not include:

- a. A bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable Land Use Ordinance;
- b. A recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:
 - i. No new lot is created; and
 - ii. The adjustment does not violate applicable Land Use Ordinances; or
- c. A recorded document, executed by the owner of record:
 - i. Revising the legal description of more than one (1) contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or
 - ii. Joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joiner does not violate applicable Land Use Ordinances.
- d. A recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:
 - i. No new dwelling lot or housing unit will result from the adjustment; and

- ii. The adjustment will not violate any applicable Land Use Ordinance.
- e. The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a “subdivision” as to the unsubdivided parcel of property or subject the unsubdivided parcel to this Ordinance.

Section 108 – Exemptions from Plat Requirements

1. The town council, after receiving a recommendation from the planning commission may approve a subdivision of ten lots or less without a plat, by certifying in writing that:
 - a. The municipality has provided notice as required by ordinance; and
 - b. The proposed subdivision:
 - i. Is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes;
 - ii. Has been approved by the culinary water authority and the sanitary sewer authority; and
 - iii. Conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.
2. Subject to subsection (1), a lot or parcel resulting from a division of agricultural land is exempt from the plat requirements if the lot or parcel:
 - a. Qualifies as land in agricultural use;
 - b. Meets the minimum size requirement of applicable land use ordinances; and
 - c. Is not used and will not be used for any nonagricultural purpose.
3. The boundaries of each lot or parcel exempted under subsection (1) shall be graphically illustrated on a record of survey map that, after receiving the same approvals as are required for a plat, shall be recorded with the county recorder.

4. If a lot or parcel exempted under subsection (2)(a) is used for a nonagricultural purpose, the town council may require the lot or parcel to comply with the requirements of the subdivision ordinance.
5. Documents recorded in the county recorder's office that divide property by a metes and bounds description do not create an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by subsection (1) is attached to the document.
6. The absence of the certificate or written approval required by subsection (1) does not affect the validity of a recorded document.
7. A document which does not meet the requirements of subsection (1) may be corrected by the recording of an affidavit to which the required certificate or written approval is attached in accordance with section 57-3-106, Utah Code annotated, 1953 as amended.

Section 109 —Fees and Charges:

The Council, by Resolution, may establish all necessary fees and charges payable for subdivision application processing, application reviews, inspection services, and any additional services provided by the Town or required of this Ordinance. Such fees and charges may be amended from time to time, as considered necessary, by Council.

Section 110—Prohibited Acts:

1. An owner of any land located in a subdivision who transfers or sells any land in that subdivision before a Final Plat of the subdivision has been approved and recorded in the Office of the Utah County Recorder, as required and provided by this Ordinance, and the Act, is guilty of a violation of this Ordinance, and the Act, for each lot or parcel transferred or sold.
2. The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring lots does not exempt the transaction from being a violation of this Ordinance, and the Act, or from the penalties or remedies provided by this Ordinance, or the Act.
3. Notwithstanding the provisions of this Section, the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this Ordinance, and the Act:
 - a. Does not affect the validity of the instrument or other document; and

- b. Does not affect whether the property that is the subject of the instrument or other document complies with the Town's Land Use Ordinances, including this Ordinance, and the Town's other Land Use Ordinances, including the Vineyard Town Zoning Ordinance (hereinafter "Zoning Ordinance").

Section 111—Restrictions for Solar and other Energy Devices:

The Commission may refuse to recommend, and the Council may refuse to approve a Preliminary Subdivision Application, Preliminary Plat, or the dedication of any street or other ground, if deed restrictions, covenants, or similar binding agreements running with the land for the lots or parcels covered by the Preliminary Subdivision Application or Preliminary Plat prohibit or have the effect of prohibiting reasonably sited and designed solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on lots or parcels covered by the Preliminary Subdivision Application or Preliminary Plat.

Section 112—Enforcement:

1. The Town may take all actions, allowed under the law, to insure compliance and enforcement of this Ordinance. Failure of the Town to enforce any provision or seek remedies to any violation of this Ordinance shall not legalize any such violation.
2. The Town, or any adversely affected owner of real estate within the Town, in which violations of this Ordinance are occurring, or are about to occur may, in addition to other remedies provided by law, institute:
 - a. Injunctions, Mandamus, Abatement, or any other appropriate actions; or
 - b. Proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
3. As provided by the Act, the Town need only establish a violation of this Ordinance to obtain the injunction.
4. The Town may bring an action against a property owner to require that the property conform and comply with the provisions of this Ordinance, or the Act.
5. An action brought by the Town against a property owner, and authorized by this Section, and the Act, may include an injunction, abatement, merger of title, or any other appropriate action or proceeding to prevent, enjoin, or abate the violation of this Ordinance.
6. See also Section 113, herein.

Section 113 —Licenses and Permits:

1. From the effective date of this Ordinance, no license or permit, including the issuance of any building permit for the construction, alteration, or modification of any building or structure, shall be issued by the Town unless such permit or license complies with the requirements and provisions of this Ordinance, including a determination that the lot or parcel, proposed for the license or permit, is a legal lot created pursuant to the provisions of this Ordinance, or prior enactments, or is a legal lot of record. Any approval issued in conflict with the provisions and requirements of this Ordinance shall be void.
2. The Town may enforce this Ordinance by withholding building permits.
3. It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within the Town without approval of a building permit, unless such building is exempt, as provided by the Building Codes of the Town.
4. Except as provided by Section -115 herein, the Town shall not approve and issue a building permit unless the plans for the proposed erection, construction, reconstruction, alteration, or use fully conform to all adopted Land Use Ordinances of the Town, including this Ordinance, and the Zoning Ordinance.

Section 114—Penalties:

1. A violation of any provision of this Ordinance is punishable as a Class C misdemeanor upon conviction either:
 - a. As a Class C misdemeanor; or
 - b. By imposing an appropriate civil penalty adopted under the authority of the Act.

Section 115 —When an Applicant is Entitled to Approval of an Application – Exceptions – Town May Not Impose Unexpressed Requirements – Town Required to Comply with the Requirements of this Ordinance:

An Applicant is entitled to the approval of an application, required by this Ordinance, if such application conforms to the requirements of this Ordinance, and the Town's other Land Use Ordinances, Land Use Maps, and Zoning Ordinance, as may be applicable, and in effect at the time when the Town Planner determines the application to be complete and all fees have been paid, unless:

1. The Land Use Authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the application; or

2. In the manner provided by Local Ordinance and before the application is submitted, the Town has formally initiated proceedings to amend its Land Use Ordinances in a manner that would prohibit approval of the application as submitted.
3. The Town shall process an application without regard to proceedings initiated to amend the Town's Land Use Ordinances if:
 - a. One hundred and eighty (180) calendar days have passed since the proceedings were initiated; and
 - b. The proceedings have not resulted in an enactment that prohibits approval of the Application, as submitted.
4. If the Final Plat, as required by Section 400 herein conforms fully to the requirements of this Ordinance, and the Town's other Land Use Ordinances, including the Zoning Ordinance, and has been approved by the Culinary Water Authority and the Sanitary Sewer Authority, as identified by Section 302(11) herein, the Final Plat shall be approved.
5. The Town shall not impose on an Applicant, or any holder of any approval required by this Ordinance, any requirement that is not expressed:
 - a. In the approval required by this Ordinance, or in documents on which such approval is based; or
 - b. In this Ordinance, or in the Town's other Land Use Ordinances, including the Zoning Ordinance.
6. The Town shall not withhold the issuance of a Certificate of Occupancy because of an Applicant's failure to comply with a requirement that is not expressed:
 - a. In the Building Permit, or in documents on which the Building Permit is based; or
 - b. In this Ordinance, or the Town's other Land Use Ordinances, including the Zoning Ordinance.
7. The Town shall be bound by the terms and standards of this Ordinance, and the Town's other Land Use Ordinances, as applicable, and shall comply with all mandatory requirements and provisions of such Ordinances.
8. The Town shall process and render a decision on each Application required by this Ordinance with reasonable diligence.

Section 116—Town Imposed Requirements and Exactions on Application Approval:

The Town shall not impose any requirement(s) or exaction(s) on any approval required by this Ordinance unless:

1. An essential link exists between a legitimate governmental interest and each requirement or exaction; and
2. Each requirement or exaction is roughly proportionate, both in nature and in extent, to the impact of the proposed subdivision.

Section 117—Appeals:

To provide for appeals of decisions of Land Use Authorities administering or interpreting this Ordinance, and to comply fully with the requirements of the Act the following Appeal Authorities are identified.

Any person, including the Applicant for any approval, license, or permit required by this Ordinance and any board or officer of the Town, adversely affected by a decision of a Land Use Authority administering or interpreting this Ordinance may appeal that decision to the Appeal Authority as identified by Chapter 26 of the Vineyard Town Zoning Ordinance.

Section 100 amended - Ordinance #2009-02 - Effective 03.25.09